App F IX—4

Previous References

955 Sb
Com'

File No 14 55—

Serial Nos 8, 11

Later References

LH 33 CBAS

MYSORE GOVERNMENT SECRETARIAT

Serial Nos 2 — P-21-E

Part B for June 1956.

SUBJECT

Amendment of the bye laws relating to the Construction of buildings and other Structures — Tiptur City Municipality

WD 05150—GPB—35 000—18 10-56

LH 581 12 6 56

The Municipal Commr Tiptur city Municipality (thro Hotpath)

Sends a reply that it is not acceptable

Letter 12/6

Mysore Government Secretariat | File No of 195 | [App F III 2

Serial No

From

The M Comm Mysore City Mlc

C2P K 182 C 427/53-56 Dt 3 12 55

Regrets orders of Govt sanctioning the amendments to the Byelaws relating to the Construction of Buildings and other Structures Contained in Chapter XXVIII of the Mysore City Municipal Rules and Byelaws so as to levy a License fee on applications received therefor

1) The M Comm Mysore City Mlc has proposed an amendment to the Byelaws relating to the Construction of buildings and Structures Contained in Chapter XXVIII of the Mysore City Municipal Rules and Byelaws so as to levy a license fee on applications received therefor

The amendment proposed is marked A on the plan and it has to be inserted as Byelaws no 2 A

It is stated that all the prescribed formalities were observed and that no objections so received were duly considered.

The amendments proposed as Byelaws no 2

Note —Contn Sheet

Amendment of Byelaws — File No 6602/M of 1955 — Mysore Government Secretariat

Serial No

2246/55-56

A)

may be approved

PS 19/1 M.127/1

2) Law Secy may kindly be requested to Scrutinise the byelaw

7/2

Law Secy)

17008 8 FEB GOVT SECRETARIAT MYSORE

3) For needful & return

Law Secy) 6/2/56

4)

SECRETARY Legis 13563 LAW DEP Mas 9/2/56

5) The administrative Secy may be requested to make available an updated copy of the Mysore City Municipal Rules which contains the bye-laws proposed to be amended

Legis 10/2/1956

6) ..sst Secy Municipal) Mas 11/2/56

Sw MS OFER 1956 10/2/56

SR 10/2/56

7) A Copy of the Mysore City Municipal Rules and Byelaws as, herewith-given. This may now be referred to the Legislative Dept

PS 14/2 M.16/2

8)

Asst Secy Legislation)

Mas 20/2/56

Sw KNG 20/2/56

JR 20/2/56

3PB—P 4 S 130 000—21-5 55

General and Revenue Secretariat

Amendment of Byelaws – Hgts

File No 246 of 19 City Municipal APP. F. III

WD 015452—GPB—PZS—40 000—1 10

Serial No

LD 6600 MS

Subject A copy of Byelaws framed by the City of Bangalore Municipal Corporation relating to levy of fee for ~~buildings~~ permission to build houses ~~was~~ ~~to be~~ for reference

Secy 6/3/56

JSR 6/3/56

10) Mas 6/3/56

Asst Secy Municipal

11) A Copy of the Byelaws framed by the City of Bangalore Municipal Corporation as herewith passed as required by the Legislation Dept (Byelaw no 38)

12) This may now be returned to the Legislation Dept the two Copies of byelaws & Rules relating to the Corporation of the City of Bgre and the Mysore City Municipality which are placed before for reference may kindly be returned when no longer required

Asst Secy Legal Branch 13) RS 19/3

RS 17/3 MS 19/3

Mas 20/3/56

SI IN Sy 20 MAR 1956 JSR 20/3/56

14) The point for consideration is whether the City Municipal Council Mysore could levy a fee for the grant of permission

-Contn Sheet

Amendment of the laws of City Municipality, etc.

File No 2244/20 of 19

General and Revenue Secretariat

Serial No

to construct, repair or improve buildings on the city

15) Section 82(1) of the City Municipalities Act specifies the cases in which the municipal Council may charge fee or for the licence or permission granted. Under that section the municipal Council may charge a fee for the licence or permission granted for making any temporary erection or for putting up any projection or for the temporary occupation of any public street or other land vested in the municipal Council. Under Sub Section (2) the municipal Council may also charge fees for any other purpose relating to municipal administration

16) The purpose for which the municipal Council now propose to levy fee does not come under Sub Section (1) nor can it be considered to come under Sub Section (3) The Act therefore does not appear to authorise the municipal Council to levy fee for the purpose granting permission under section 115 to construct or reconstruct any building

17) In this connection it is noted that according to Art 265 of the Constitution no tax shall be levied or

WD 5071-GPE-80-600-5-10-4

Serial No

Collected except by authority of law It has been held by the Rajasthan High Court that Constitutionally speaking a fee is also a tax for the purpose of the Constitution for no fee can be levied without the authority of law- Vide M S M Thilla V State of Rajasthan - A I R 1954 Rajasthan 180; 175 This was also the view of the Supreme Court - Vide para 12 of the decision in Commr H R E Vs L T Swamiyar A I R 1954 S C 282 284

18) It is stated by the Commr Municipal Council - Mysore that Bangalore Corporation is levying fee on such applications Section 385 (2) of the Corporation Act authorises the levy of fee for grant of licence or permission - There is no provision in the City Municipalities Act - Corresponding to Section - 385 (2) of the Corporation Act -

19) Hence the proposed bye laws providing for levy of fee for grant of permission under Section 115 to construct or reconstruct any building does not appear to be legally valid -

20) Consequently the proposed amendment cannot be approved.

Law Secy) 27/4/56

Secretary - L S G 27/4/56

27/4/56

P T O

26/4

Rec 26/4

27/4/56

1362 27/4

NOTE — Contn sheet

384/88

384

6600/m

Amendment of the Bye Laws relating to the conditions of Contracts of State Lotteries

File No | of 195 | Mysore Government Secretariat

Serial No

22) In the light of the opinion furnished by the Legislation Dept., the amendments proposed by the M/I Council Mysore may not be accepted

23) A draft letter as also put up for approval. They have not incorporated in full the law opinion. Pl. put up another typed draft incorporating, in full, the law opinion

LSTP

Typing Section may type the draft

25) Submit a typed draft letter incorporating the law opinion in full for approval

95 M.26/5

26) Draft letter for approval

2611

EDUCATION 29 2857

See 20th inst)

27) For removal of objectionable clause between the payment of the d.a.

29/5/86

Minister (L&G)

4/6/86

P.T.O.

OFFICE OF THE MINISTER FOR PUBLIC HEALTH & LOCAL SELF GOVERNMENT 20 MAY 1986 No 938

L & L S G SECRETARY 5 JUN 1986

WD 07074—GPP—80 000—5 10

6600/17
Amendment of the Byelaws relating to Conduct
of Buildings — Bylaw Cty-Dlg
2) Draft letter put up as for formal approval
DJ
6/6
Issued
JL
7/6
M 6/6
2
The Dll Comm Bylaw Cty-Dlg
L 4587/CH 16-85-11 DJ 12 6
Send a reply Bol-at wishes accepted
Inspectorate
DJ
26/6

No
Encls 1) 6819, 2) C R & 3) Bye-laws & objections 2 Copies

CITY MUNICIPAL COUNCIL
P B No 17

Mysore dated 30-11-55

CM 14-55-8

660

FROM

MUNICIPAL COMMISSIONEP
CITY MUNICIPAL COUNCIL
MYSORE

5 DEC 55

ecretary to Government,
Education and L S C Departments,
Bangalore

Through the President)

Sir,

Subject - Amendment of the bye-laws relating to the contsuctio of buildings and other structures contained in Chapte XXVIII of the Mysore city Municipal Rules and Bye-law

---

~~Advertting~~ According to the existing bye-laws referred to above, no fees are being levied on applications received for the grant of license to construct, repair or improve buildings in the city The number of applications received in a year is 3000 on the average I brought to notice of the Council which considered the budget estimates for 54-55, that in Bangalore Corporation, fees were being levied on such applications, and a similar levy could be adopted in this Municipality also so to meet the expenditure connected with licensing After examining the question in all aspects of the case, the Council at their meeting held on 27-3-1955 resolved that concrete proposals may be worked out in this behalf To translate into action this resolution of the Council, it was suggested that the following bye-la may be inserted as bye-law 2 A after bye-law 2

" Every person intending to construct or reconstruct any building within the meaning of Section 115 of the Act shall tender together with the notice mentioned in Bye-law No 2 a chellan for having paid into Municipal Treasury the necessary license fee in respect of such building at the rate of Re 1/- for every one hundredsquare feet or part thereof of the ground loor and any basement floor below ground floor and at the rate of Re 0-8-0 for every one hundred square feet or part thereof of the subsequent top floor If sanction is refused license fee will be refunded on an application to the Commissioner

(b) Every application for renewal of license within th meaning of Section 115 of the Act shall be accompanied by a chellan for having paid Rs 2/- for each renewal into the Municipal Treasury

Provided the application for renewal is made within the period of expiry If application is made after the expiry of the period full license fee as per bye-law No 2A (a) will hav to be paid

(c) For every 100 feet or fraction thereof of compound walls, license fee of Re 1 shall accompany each application

(d) For every structural alterations proposed to be carried outto any existing structure such as Chajja re-roofing insertion doors and windows, partition walls, etc , a chellan for having paid into the treasury Rs 2/- shall accompany every application

(e) Every License granted under section 115 of the Act shall be kept in force so long as the work continued to progress by a license fee of Rs 2/- per year in the case of buildings and 1/- per half year in the case of huts or walls If the work is continued without renewal not withstanding the proviso that the w has been commenced within the period of the currency enumerated i Section 115 of the Act such construction shall be deemed to have been constructed without permission within the meaning of section 115"

The above proposal having been approved by the Council at their meeting held on 5-9-55, objections were called for as per rules by publication of the amendments in the Official Gazette and also in the Local papers

Excepting the objection of one Sri S N Srinivasan of Madras, which was received 5 days after the due date and of Sri Y S Venkata-Krishnaiah of Mysore no other objections were received

The objections of Sri Y S Venkatakrishniah of Mysore is that the levy of fees hits the poor hard and discourages the construction of buildings in these days of housing shortage

The objection of Sri Srinivasan is to the effect that the levy is a burden to the Middle and the lower classes and might hamper even the building industry and on the other hand increase unauthorised constructions

The objections were considered by the Council at their meeting held on 25-11-55 They were of the view that the fee proposed was very modest and in no case it would go beyond Rs 10/- for buildings worth Rs 10,000/- For every construction of Rs 1000/- a fee of Re 1/- is negligible and a person investing Rs 1000/- would never feel it difficult to pay re 1/- Even the renewal fee of Rs 2/- was not considered heavy As regards the other objection the Council felt that the unauthorised construction do not increase on this accou A person taking up construction without permission runs the risk of being prosecuted for the offence and for payment of fine therefor

The Council therefore came to the conclusion that the objections were untenable and the amendments notified might be finally approved

I enclose a copy of the resolution and request that orders of Government may kindly be obtained approving the amendment

Yours faithfully,

(M Lakshman Rau)
Municipal Commissioner

Forwarded with compliments,

President

4

Council Proceedings of the ~~ordering~~ Ordinary Meeting of the City Municipality held in the Municipal Office on 25-11-55 at 4 P M

962 Office Note dated 5-11-55 re the objections received with regard to the final approval of the amendment to the bye-laws ~~Building~~ relating to the construction of buildings and other structures contained in chapter XXVIII of the Mysore city Municipal Rules and bye-laws so as to levy a license fee on applications received therefor

Objections overruled may be recommended

Sd K Puttaswamy
President

Copy,

Municipal Commissioner

OFFICE OF THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL OFFICE MYSORE

N tificatio dated 10th September 1955

No C2 P R 182 C 427—55 56 Notice is hereby given to the inhabitants of the Municipality of Mysore that the Municipal Council desire to amend the Bye laws relating to the construction of Buildings and other structures contained in Chapter XXVIII of the Mysore City Municipal Rules and Bye laws so as to levy a license fee on applications to be received therefor The details of amendment are as follows —

Insert the following as 2 A to follow immediately after Bye law 2 existing at present

2 A (*a*) Every person intending to construct or reconstruct any building within the meaning of Section 115 of the Act shall tender together with the notice mentioned in Bye law No 2 a chellan for having paid into Municipal Treasury the necessary license fee in respect of such building at the rate of Re 1 for every one hundred square feet or part thereof of the ground floor and any basement floor below ground floor and at the rate of Re 0 8 0 for every one hundred square feet or part thereof of the subsequent top floor If sanction is refused license fee will be refunded on an appli cation to the Commissioner

(*b*) Every application for renewal of license within the meaning of Section 115 of the Act shall be accompanied by a chellan for having pa d Rs 2 for each renewal into the Municipal treasury

Provided the application for renewal is made within the period of expiry If application is made after the expiry of the period full licence fee as per bye law No 2A (*a*) will have to be paid

(*c*) For every 100 feet or fraction thereof of compound walls a licence fee of Re 1 shall accompany each application

(*d*) For every structural alterations proposed to be carried out to any existing structure such as chajja re roofing insertion of doors and windows partition walls etc a chellan for having paid into the treasury Rs 2 shall accompany every application

(*e*) Every licence granted under Section 115 of the Act shall be kept in force so long as the work continued to progress by a licence fee of Rs 2 per year in the case of buildings and Re 1 per half year in the case of hu s or walls If the work is continued without renewal not with standing the proviso that the work has been commenced within the period of the currency enumerated in Section 115 of the Act such construction shall be deemed to have been constructed without permission within the meaning of Section 115

Any inhabitant of the Municipality objecting to the proposed amendment may within one month from the date of this notice send his objection in writing to the Municipal Council

N LAKSHMAN RAU
Municipal Commr

1407

FROM THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL OFFICE MYSORE

Notification dated 10th September 1955

C2. P R 182 C 427—55 56 Notice is hereby given the inhabitants of the Municipality of Mysore that the Municipal Council desire to amend the Bye laws relating to construction of Buildings and other structures contained pter XXVIII of the Mysore City Municipal Rules and Bye-laws so as to levy a license fee on applications to be received therefor The details of amendment are as follows:—

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(a) Every person intending to construct or reconstruct any building within the meaning of Section 115 of the Act, shall tender together with the notice mentioned in Bye law No. 2, a chellan for having paid into Municipal Treasury the necessary license fee in respect of such building at the rate of Re. 1 for every one hundred square feet or part thereof of the ground floor and any basement floor below ground floor and at the rate of Re. 0 8 0 for every one hundred square feet or part thereof of the subsequent top floor If sanction is refused license fee will be refunded on an application to the Commissioner

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N LAKSHMAN RAU
Municipal Commr

1407

nstitution of

be levied or collected except by authority of Law

OFFICE OF THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL OFFICE MYSORE

N tificatio dated 10th S ptembe 1955

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Any inhabitant of the Municipality objecting to the proposed amendment may within one month from the date of this notice send his objection in writing to the Municipal Council

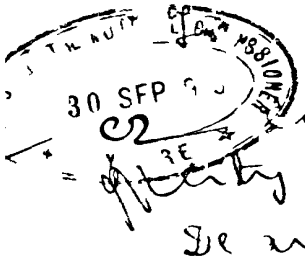
N LAKSHMAN RAU
Municipal Commr

1407

to Art 265 of the Constitution of India, n
be levied or collected except by authority

857, Chamundi
Extension, Mysore
27-9-1953

From
T S Venkatakrishnaiya
B Sc, Engineer



The Municipal
Commissioner,
City Municipality, Mysore

Dear Sir,

Your notification
No. C 2 P R 182-C 427/53-31
dated 10-9-1953 in "Sadhana"
Mysore - about amending the
bye-laws relating to the Construc-
tion of Land Cess etc

I strongly object to the
proposed amendments for
the reasons noted below

P T O

s connection it may be stated that

to Art 265 of the Constitution of India, no
be levied or collected except by authority

1) It is harassing in nature,
2) It discourages Building construction in these days of house shortage
3) It hits hard the poor as they have to pay licence fees every time a slight improvement is effected to the building
4) Laymen, unknowingly and innocently are likely to commit breaches of the bye laws and make themselves liable for prosecution
5) It is not practicable to approach the city Municipal office every time, some slight alteration is needed to the dwelling

yours faithfully,
U S venkatakrishnaiya

SHALIMAR

S N SRINIVASAN
MYSORE HOUSE
1/14 PEYALWAR KOVIL STREET
Triplicane MADRAS 5

1/14, Peyalwar Kovil Street,
Triplicane - Madras 5

15th October 1955

Ref No SNS 5400/55

The Municipal Commissioner,
Mysore City Municipality
M y s o r e

Sir,

"BETTER BE LATEX THAN NEVER"
Your Notification No G P R 182-C427/55-56
Dated,10-9-1955
Amendment of the Building Construction
Bye-Laws -

17 OCT 1955 MYSORE

It has come to my knowledge just now that you have issued a Notification No G P R 182-C427/55-56 of 10-9-1955 to the inhabitants of Mysore City, that the Municipal Council proposes to amend the Bye-laws relating to the construction of buildings and other structures, contained in Chapter XXVIII of the Mysore City Municipality Rules and Bye-laws so as to levy Licence fees on applications to be received therefor Although the time limit of one month is just over I trust you will be good enough to take into consideration the following Objections and/or suggestions in the interest of the general public of Mysore City and also of special interest of those who own immovable landed property such as Houses in Mysore City, but are residing outside Mysore for the Trade Proffession or calling etc

1 I regret the above said notification has not been given any wide publicity in the sense that it was not published in all the leading dailies of South India such as the "Hindu", the "Indian Express" or "Deccan Herald" or atleast "Tai Nadu" as these papers have considerable circulation by which the Owners of Property in Mysore City can gain knowledge of the Notification and register their objections and/or suggestions well in advance Though Section 51(2) of the Mysore City Municiaplity Act empowers the Municipality to publish the drafts of the proposed bye-laws in such manner as prescribed in the Act, I wish to suggest that it must be in the interest of the Municipal Council and the Owners of houses in Mysore, that you give the WIDEST PUBLICITY in

BE BRIGHT SAY SHALIMAR PAINT

Contd -

In this connection it may be stated that ac

to Art 265 of the Constitution of India, no tax s
be levied or collected except by authority of Law

in the sense that Tax-Payers of Mysore City who reside outside Mysore can gain knowledge of any such contemplation or movement wherever they may reside for the sake of their livelihood Further I learn that the said notification was published in some insignificant news sheet of Mysore City which does not command any such circulation as we expect I doubt whether they are Members of the Audit Buarau of Circulation Any action taken by the Municipality to circumvent the proper circulation of such important measures will be a short sighted policy

2 The introduction of the new bye-law 2 A (a) levying a licence ~~ff~~ fee at the rate of Re 1/- for every One hundred squarefeet or part thereof of the Ground Floor and below ground floor, and at the rate of Re 0-8-0 for every One hundred squarefeet or part thereof, for the subsequent floor, will in my opinion, burden heavily all the Middle and Lower Middle classes of population of the City of Mysore and might hamper the building industry and at the same time promote progress of unauthorised structures in remote corners of the City

(b) The Rewnal fee of Rs 2/- for each renewal hits hard every person who obtains a licence as the general economic condition of the citizens of Mysore is far from satisfactory Hence, the renewal must be made free of cost and without being penalised as suggested in the proposed bye-law The forfeiture of the licence fee paid as per bye-law 2 A(a) merely on the ground that the renewal was not done before the expiry of the time allowed goes to the very root of the construction and certainly, this violent portion of the draft byewlaw must be deleted entirely

(c) The fee prescribed for constructing the compound walls at Re 1/- per every one hundred R ft or part thereof should be reduced to 8 annas at the rate of one hundred R ft and calculated in the same manner No fee should be levied for putting or erecting wire fences ~~in~~ as a substitute for compound walls

(d) The proposed fee of Rs 2/- to be levied for every structural alteration carried to any existing structure or for insertion of doors and windows or partition walls etc , will enhance the tax-burden on the law abiding citizens of Mysore City and I am afraid it may create disharmony, ill-will and non-cooperation of the public with the - - Municipal servants and others Therefore, I strongly recommend that this proposed bye-law should be deleted altogether

3 In conclusion I place the above stated objections and/or suggestions for your sympatahtic consideration and appeal to you to grasp in the right perspective, the feelings of thos who will be affected by this sudden change of bye-laws and thus bring down the heavy tax-burden to the very minimum in order to establish healthy and cordial atmosphere between the inhabitants of Mysore City on the one hand and the Municipality and its servants on the other hand

Yours truly,

S N Srinivasan

to Art 265 of the Constitution of India, no tax shall be levied or collected except by authority of Law

DRAFT

Mol 4581
A 12 6 56 Cnp 14 55-

To

The Mn Commissioner
Mysore City Municipality -thro' the
President

Sir,

Sub - Amendment of the b elaws relating to construction of buildings and other structures contained in chapter XXVIII of the Mysore City Mn Rules and Byelaws

---

With reference to your letter No C2 PR 182 C 427/ 55-56 dated 3-12-1955 on the above subject I am directed to state that the point to be considered in this case is whether the City Mn Cl Mysore could levy a fee for the grant of permission to construct, repair or improve buildings in the City

Section 82(1) of the City Mnts Act 1933 specified the cases in which the Mn Cl may charge fee or for the license or permission granted under that section the Mn Cl may charge a fee for the license or permission granted for making any temporary erection ~~temporary erection~~ or for putting up any projection or for the temporary occupation of any public street or other land vested in the Mn Cl

Under sub-section (3) of the said section the Mn Cl may also charge fees for any other purpose relating to the Mn Administration

The purposes for which the Mn Council now propose to levy fee does not come under sub-section(1) nor can it be considered to come under sub-section(3)

The Act therefore does not appear to authorise the Mn Cl to levy fee for granting permission under section 115 to construct or reconstruct any building

In this connection it may be stated that accordin to Art 265 of the Constitution of India, no tax shall be levied or collected except by authority of Law

P t o

It has been held by the Rajasthan High Court that constitutionally speaking a fee is also a tax for the purpose of the Constitution, for no fee can be levied without the authority of Law, vide M S U Mills v/s State of Rajasthan, A I R 1954 Rajasthan 180 This is also the view of the Supreme Court vide para 42 of the decision on Commr H Swamiyar, A I R , S C 284

It is stated by you that the Corporation of the City of Bangalore are levying fee on such of applications Section 385(2) of the Corporation Act authorises the levy of fee for grant of license or permission There is no provision in the City Municipalities Act corresponding to section 385(2) of the Corporation Act

Hence the proposed bye-law providing for levy of fees for grant of permission under section 115 to construct or reconstruct any building does not appear to be legally valid and therefore it cannot be approved

Yours faithfully,

Secretary to Government,
Education & LSG Depttts

bws DRAFT 26 5

13

No L 4581/CM 14-05-11 A 12 6 56

The

Education & L S G Departments.

The Municipal Commissioner,
Mysore City Municipality,
(thro' the President)

Sir,

Subject:- Amendment of the byelaws relating to construction of buildings and other structures contained in Chapter XXVIII of the Mysore City Municipal Rules and Byelaws

-:-

With reference to your letter No C2 PR 182 C 427/55-56 dated 3-12-1955 on the above subject, I am directed to state that the point to be considered in this case is whether the City Municipal Council, Mysore, could levy a fee for the grant of permission to construct, repair or improve buildings in the City

Section 82(1) of the City Municipalities Act,1933, specifies the cases in which the Municipal Council may charge fee or for the license or permission granted under that section the Municipal Council may charge a fee for the license or permission granted for making any temporary erection or for putting up any projection or for the temporary occupation of any public street or other land vested in the Municipal Council

Under sub-section (3) of the said section the Municipal Council may also charge fees for any other purpose relating to the Municipal Administration

The purpose for which the Municipal Council now propose to levy fee does not come under sub-section(1) nor can it be considered to come under sub-section(3).

The Act therefore does not appear to authorise the Municipal Council to levy fee for granting permission under section 115 to construct or reconstruct any building

In this connection it may be stated that according to Art 265 of the Constitution of India, no tax shall be levied or collected except by authority of Law It has been held by the Rajasthan Hi

44

High Court that constitutionally speaking a fee is also a tax for the purpose of the Constitution, for no fee can be levied without the authority of Law, vide M S U Mills V/S State of Rajasthan, A I R , 1954, Rajasthan, 180 This is also the view of the Supreme Court vide para 42 of the decision on Commt H R E V/S L F Swamiyar, A I R., S C 284

It is stated by you that the Corporation of the City of Bangalore are levying fee on such applications Section 385(2) of the Corporation Act authorises the levy of fee for grant of license or permission There is no provision in the City Municipalities Act corresponding to Sec' 385(2) of the Corporation Act

Hence the proposed bye-law providing for levy of fee: for grant of permissionx under Section 115 to construct or reconstruct any building does not appear to be legally valid and therefore it cannot be approved

Yours faithfully,

(V Hanumanthappa)
For Secretary to Government,
Education & L S G.Department

HGN 2/8 6.